

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ELIZABETH HANSEN, Individually, and
ELIZABETH HANSEN, Personal
Representative of the Estate of Michael Hansen,
deceased,

Plaintiffs,

vs.

THE UNITED STATES OF AMERICA,

Defendant.

8:21CV371

**MEMORANDUM AND ORDER ON
PLAINTIFFS' MOTIONS IN LIMINE
REGARDING DEPOSITION
DESIGNATIONS**

Before the Court is Plaintiffs' Motions in Limine Regarding Deposition Designations. [Filing 195](#). The Court rules on these Motions as set out in the table titled "Hansen v. USA – Deposition Objections Log" below.

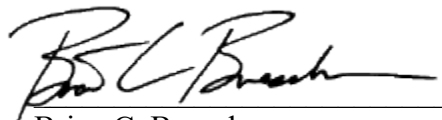
The Court notes that where there was no objection to additional noted deposition excerpts being read, the Court will consider the additional excerpts.

Although the Court believes it ruled upon all objections made, if there are any objections that were not ruled upon, the Court requests that the parties bring this to the Court's attention.

IT IS ORDERED that Plaintiffs' Motions in Limine Regarding Deposition Designations, [Filing 195](#), are granted in part and denied in part as outlined in the below chart.

Dated this 11th day of December, 2023.

BY THE COURT:



Brian C. Buescher
United States District Judge

Hansen v. USA – Deposition Objections Log

<u>Designation Excerpt</u>	<u>Plaintiff's Objection</u>	<u>Defendant's Objection</u>	<u>Opposing Party's Response</u>	<u>Sustained</u>	<u>Overruled</u>
Apar Ganti					
All objections asserted by the parties have been waived or resolved.					
David Williams					
23:10-20		R	Foundational information about the witness's knowledge; relates to the institutional disclosure that was made by the VA Hospital.	X	
24:5-26:7		R	In light of the Court's order in limine (Filing No. 169), Plaintiff does not dispute that sustaining this objection would be consistent with the Court's order.	X	
26:11-27:18		R	In light of the Court's order in limine (Filing No. 169), Plaintiff does not dispute that sustaining this objection would be consistent with the Court's order.	X	
28:15-34:13		R	In light of the Court's order in limine (Filing No. 169), Plaintiff does not dispute that sustaining this objection would be consistent with the Court's order.	X	
56:11-57:4		R	In light of the Court's order in limine (Filing No. 169), Plaintiff does not dispute that sustaining this objection would be consistent with the Court's order.	X	

61:3-5		R	In light of the Court's order in limine (Filing No. 169), Plaintiff does not dispute that sustaining this objection would be consistent with the Court's order.	X	
61:18-62:9		R	In light of the Court's order in limine (Filing No. 169), Plaintiff does not dispute that sustaining this objection would be consistent with the Court's order.	X	
63:2-14		R	In light of the Court's order in limine (Filing No. 169), Plaintiff does not dispute that sustaining this objection would be consistent with the Court's order.	X	
77:7-78:24		R	Relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure.		X
80:14-91:2		R, Scope, Privilege	Relates to the witness's credibility.	X	
100:17-101:2		R	Relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure.	X	
101:10-102:12		R	Relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure.	X	
102:21-104:12		R	Relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure.	X	

105:8-17		R	Relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure; also relates to the witness's credibility in interpreting the policy.	×	
110:1-117:20		R	Relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure.	×	
118:15-130:12		R	Relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure.	×	
131:12-132:11		R	In light of the Court's order in limine (Filing No. 169), Plaintiff does not dispute that sustaining this objection would be consistent with the Court's order.	X	
133:2-136:6		R	In light of the Court's order in limine (Filing No. 169), Plaintiff does not dispute that sustaining this objection would be consistent with the Court's order.	X	
Jennifer Compton					
93:3-17		R	In light of the Court's order in limine (Filing No. 169), Plaintiff does not dispute that sustaining this objection would be consistent with the Court's order.	X	
Gary Gorby					

46:17-52:17		R	Foundational background information regarding the witness's knowledge and experience.	×	
60:15-24		R	In light of the Court's order in limine (Filing No. 169), Plaintiff does not dispute that sustaining this objection would be consistent with the Court's order.	X	
86:24-88:15		R	In light of the Court's order in limine (Filing No. 169), Plaintiff does not dispute that sustaining this objection would be consistent with the Court's order.	X	
88:16-90:22		R	Relates to the witness's credibility; relates to the damages plaintiff sustained relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure.		×
91:14-95:10		R	In light of the Court's order in limine (Filing No. 169), Plaintiff does not dispute that sustaining this objection would be consistent with the Court's order.	X	
101:9-103:15		R	In light of the Court's order in limine (Filing No. 169), Plaintiff does not dispute that sustaining this objection would be consistent with the Court's order.	X	
108:15-113:25		R	In light of the Court's order in limine (Filing No. 169), Plaintiff does not dispute that sustaining this objection would be consistent with the Court's order.	X	
119:8-122:11		R	Relates to the witness's credibility; relates to the damages plaintiff sustained relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed		×

			diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure.		
123:25-124:10		R	Relates to the witness's credibility; relates to the damages plaintiff sustained relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure.		×
126:23-127:25		R	Relates to the witness's credibility; relates to the damages plaintiff sustained relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure.		×
128:20-133:6		R	Relates to the witness's credibility; relates to the damages plaintiff sustained relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure.		×
133:21-135:23		R	Relates to the witness's credibility; relates to the damages plaintiff sustained relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure.		×
137:16-149:25		R	Relates to the witness's credibility; relates to the damages plaintiff sustained relates to the		×

			institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure.		
152:19-153:15		R Requests entire record be read from 152:19-158:1	Relates to the witness's credibility; relates to the damages plaintiff sustained relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure. No objection from plaintiff to the additional portions being read.		×
153:16-156:25		R	In light of the Court's order in limine (Filing No. 169), Plaintiff does not dispute that sustaining this objection would be consistent with the Court's order.	X	
157:1-22		R	Relates to the witness's credibility; relates to the damages plaintiff sustained relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure.		×
158:8-161:13		R	Foundational questions regarding the witness's knowledge in preparation to testify; relates to the witness's credibility; relates to the damages plaintiff sustained relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and		×

			treatment and the information that was available to the VA prior to the institutional disclosure.		
161:23-167:12		R	Relates to the witness's credibility; relates to the damages plaintiff sustained relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure.		×
168:11-170:3		R	Relates to the witness's credibility; relates to the damages plaintiff sustained relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure.		×
172:11-176:19		R	Relates to the witness's credibility; relates to the damages plaintiff sustained relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure.		×
178:1-12		R	In light of the Court's order in limine (Filing No. 169), Plaintiff does not dispute that sustaining this objection would be consistent with the Court's order.	X	
179:3-180:10		R	In light of the Court's order in limine (Filing No. 169), Plaintiff does not dispute that sustaining this objection would be consistent with the Court's order.	X	
180:11-24		R	In light of the Court's order in limine (Filing No. 169), Plaintiff does not dispute that sustaining this	X	

			objection would be consistent with the Court's order.		
181:3-190:9		R, Hearsay	Relates to the witness's credibility; relates to the damages plaintiff sustained relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure.		×
190:24-197:8		Speculation, H, R, Form and Foundation The United States requested the record be read from 181:3-222:15. Form and foundation objections were made during the deposition at 191:4-5, 191:19-20 and 193:2.	The speculation, form, and foundation objections are waived because they were not made at the deposition. Relates to the witness's credibility; relates to the damages plaintiff sustained relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure. No objection from plaintiff to the additional portions being read.	191:19-20 Form Ruling: Sustained 193:2 Foundation Ruling: Sustained	191:4-5 Foundation Ruling: Overruled Remaining Objections: Overruled
199:19-200:12		Speculation, H, R, Form and Foundation The United States requested the record be read from 181:3-222:15. Form and	The speculation, form, and foundation objections are waived because they were not made at the deposition. Relates to the witness's credibility; relates to the damages plaintiff sustained relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that		199:6-17 Form and Foundation Ruling: Overruled Remaining Objections:

					Overruled
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		foundation objections were made during the deposition at 191:4-5, 191:19-20, 199:12-13 and 200:18-19.	was available to the VA prior to the institutional disclosure. No objection from plaintiff to the additional portions being read.		
200:25-222:15		Speculation, H, R, Form and Foundation The United States requested the record be read from 181:3-222:15. Form and foundation objections were made during the deposition at 191:4-5, 191:19-20, 199:12-13 and 200:18-19.	The speculation, form, and foundation objections are waived because they were not made at the deposition. Relates to the witness's credibility; relates to the damages plaintiff sustained relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure. No objection from plaintiff to the additional portions being read.		200:13-24 Form and Foundation Ruling: Overruled Remaining Objections: Overruled
225:11-227:19		R	Relates to the witness's credibility.		×
228:16-231:19		R	Relates to the witness's credibility; relates to the damages plaintiff sustained relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure.		×
231:20-243:25		R	Relates to the witness's credibility; relates to the damages plaintiff sustained relates to the		×

			institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure.		
245:20-246:12		R	Relates to the witness's credibility; relates to the damages plaintiff sustained relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure.		×
246:25-263:25		R	Relates to the witness's credibility; relates to the damages plaintiff sustained relates to the institutional disclosure that was made to Mr. and Mrs. Hansen regarding Michael's delayed diagnosis and treatment and the information that was available to the VA prior to the institutional disclosure.		×
264:2-7		F, R	Relates to the witness's credibility.		×
Saboor Randhawa					
51:18-52:15		R	Foundational information regarding the diagnosis of nodules and tumors. In prior scans of Michael's chest he had "calcified tumors" observed, which are benign/non-cancerous. Dr. Randhawa is confirming that those prior observed nodules were not cancer because they were calcified.		×
60:2-62:22	R, 403		Relates to Mr. Hansen's continued risk for contracting lung cancer (even if there had been no failure to follow up).		×

73:25-74:19	R, 403		Relates to foundation for the witness's testimony. The witness was not provided a complete copy of the NCCN Guidelines, just the pages Plaintiff's counsel wanted to highlight.		
218:4-220:11		H	The text messages are not being offered for the truth of the matter asserted, so it's not hearsay. They relate to the time period that Michael ceased treatment for lung cancer and the emotional impact that decision had on him. The witness's testimony regarding the options that were given to Michael for future treatment are not hearsay.		×
231:21-235:16		Foundation	<p>The speculation objection is waived because it is a "form" objection not made during the deposition.</p> <p>The witness confirms that the radiology scan he is reading from is information that he relies upon in connection with the treatment he gives to patients, so it is appropriate for him to review and rely on the information in forming his opinions. As an oncologist who treated Michael for lung cancer, he has sufficient information and training to interpret the information disclosed and to render an opinion that the lung cancer disease in Michael was worsening in the months leading up to Michael's ultimate death from lung cancer.</p>		×